

MOTOR FUEL EXCISE TAX CREDIT

by Heather Ball

Many retailers of propane motor fuel can claim a 50-cent-per-gallon tax credit beginning Oct. 1, 2006. The credit is effective on sales of propane motor fuel for motor vehicles and motorboats for the next three years.

New Excise Tax Rate

The credit is part of the federal highway bill, SAFETEA. The bill raised the excise tax on propane motor fuel for on-highway vehicles from \$0.136 to \$0.183 per gallon, beginning Oct. 1, 2006. The law does not change the current tax exemption for off-highway business uses, such as propane forklift fuel, or for sales to state or local governmental entities.

Propane retailers report excise tax payments on IRS Form 720, "Quarterly Federal Excise Tax Return." Retailers should continue to use this form to report taxable sales of propane motor fuel, but remember that the new excise tax rate is \$0.183 per gallon for the quarter beginning Oct. 1.

Eligible Entities

A registered Alternative Fueler claims the 50-cent-per-gallon tax credit. Private individuals, propane suppliers, private companies, non-profit agencies and government entities may be eligible to claim the credit. Even though state and local government agencies are exempt from paying the excise tax, they can still qualify for the credit.

The Alternative Fueler can be either the retailer or the user of propane motor fuel, as described in the Eligible Events discussion below.

Only one party can claim the credit on any given gallon of propane motor fuel: the retailer or the user. Whoever is liable for the motor fuel excise tax, or would be liable but for the exemption, is eligible to claim the credit.

Eligible Events

The eligible event that triggers a claim is the sale of propane for use, or the use of propane, in a motor vehicle or motorboat.



Example A. Propane retailer refuels a privately owned or government vehicle at his/her retail outlet. The retailer is the Alternative Fueler.

Example B. Propane retailer sells bulk fuel to a motor fuel customer. The customer gives the retailer a written statement saying that all the fuel purchased will be used for taxable use. In this case the propane retailer is the Alternative Fueler. The statement from the customer can be informal, but it must be in writing.

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Example C. Propane retailer sells bulk fuel or delivers filled cylinders to a private or state or local government motor-fuel customer (user). The customer refuels its own vehicles or places cylinders onto its vehicles. There is no written statement as described in

Example B. The customer (user) is the Alternative Fueler.

NOTE: Example B does not apply to governmental entities or other non-taxable uses of propane, even if they buy fuel in bulk, because they cannot issue the written statement that the fuel will go for a taxable use. Customers who only use part of the purchased fuel for motor-fuel purposes may also not use the written statement.

MOTOR FUEL EXCISE TAX CREDIT, CONTINUED

Registration

To claim the credit, the Alternative Fueler must be registered by the Internal Revenue Service. Application is made on IRS Form 637, Application for Registration (For Certain Excise Tax Activities). All Alternative Fuelers, whether or not they pay the excise tax, must apply for registration using this form in order to claim the credit. AFRED has a sample completed form on our web site, www.rrc.state.tx.us.

Upon approval, the IRS will send applicants a letter of registration. Propane retailers already registered by the IRS can continue to use their current registration until July 1, 2007, but they need to register as Alternative Fuelers by that date.

Claiming the Credit

For state and local government entities that purchase propane motor fuel in bulk, the process is straightforward. They don't pay the excise tax, so the full 50 cents per gallon is paid as a refund to them. After they are registered with the IRS, they submit Form 8849, Claim for Refund of Excise Taxes, on the gallons they use in a motor vehicle. They can file as often as they want.

For everyone else, there is a glitch in the legislation that makes the refund process more cumbersome. Railroad Commission Chairman Elizabeth Ames Jones explains, "The federal highway bill does not currently provide a simple mechanism for private propane motor fuel sellers and their customers to claim the refund. We're working with the Texas congressional delegation to get that changed."

"Currently, propane marketers or their customers have to go through the time-consuming, and sometimes confusing, process to claim the tax credit," said Commissioner Michael Williams. "First, they have to use Form 720 to report taxable sales at the rate of \$0.183 per gallon and claim the same amount as a refund. The remaining \$0.317 per gallon is claimed on their company income tax, Form 4136. If they don't have enough tax liability, they get the remainder of the credit as a refund. For sales in 2007, they may have to wait until after April 2008 to see their money. We're asking our Congressional delegation to shortcut that, so that everyone just uses the one refund form. This will be a more efficient use of time for everyone involved."



"We're urging Congress to fix the refund process soon," said Commissioner Victor G. Carrillo.

"In the meantime, I encourage propane marketers and motor fuel customers to keep good records of motor fuel sales and usage. As a seller, you don't have to claim the credit but you do need documentation for every gallon you claim after October 1st."

This article was drafted with a great deal of help from Susan Athy, Frank Boland and Barbara Franklin of the IRS Chief Counsel's Office. It updates and clarifies the presentation Barbara Franklin of the IRS gave last month to Texas propane marketers. Her presentation and a sample IRS Form 637 Application for Registration (For Certain Excise Tax Activities) are available at www.propane.tx.gov.

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